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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/977,243	10/16/2001	Peter F. Reile	FSHR042/00US	2235

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EXAMINER
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RADA, ALEX P

ART UNIT	PAPER NUMBER
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3714

DATE MAILED: 12/10/2003

8

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/977,243

Applicant(s)

REILE, PETER F.

Examiner

Alex P. Rada

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 22 September 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

In response to the amendment filed September 22, 2003 in which the applicant has amended claims 1-4, 10-13, and 19-26, adds new claims 29-31, and claims 1-31 are pending in this office action.

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-2, 4, 7-10, 13, 16-24, and 26-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Berman `773 in view of Yasuhara `777.

3. Berman discloses an electronic handheld device having a display (figure 2), a toolbar menu (figure 2) enabling a selection from a plurality of interactive tools that are included on the toolbar menu, an interactive tool (12) enable interaction with an activity that is displayed on the hand-held device, and a first and second set of interactive tools associated with another activity and the second set is associated with another activity, in which the examiner interprets to be the interactive icons in figure 3 to be an equivalent to a first and second set of interactive tools as recited in claims 1 and 10; a memory (21) for storing the activity displayed on the hand-held device as recited in claim 2; a communication device for receiving data from a second source (column 11, lines 27-37) as recited in claims 4 and 13; the second source being a second

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electronic device (column 11, lines 27-37) as recited in claims 7 and 16; a stylus (12) that enable a user to interact with the display and the stylus allows the user to select the interactive tools and the activates displayed on the display as recited in claims 8-9 and 17-18; memory (21) for storing at least one of the first and second activity, in which the examiner interprets the memory in figure 1 to be capable of storing programs of activities receiving a selection of one of a plurality of activities for display on the hand-held device, the plurality of interactive tool being associated with selectable icon in a toolbar menu (figures 2), and displaying indicia of a characteristic of a selected interactive tool as recited in claim 19; determining a state of availability for the interactive tool as recited in claim 20; the plurality of activities having a first and second activity, displaying the first and second indicia associated with an activity, and the first indicia being different from the second indicia, in which the examiner interprets to be the different icons in figure 3, as recited in claim 21; retrieving a first and second activity application from memory for display on the hand-held device and determining a characteristic of an interactive tool included on a toolbar menu (figure 2) disposed on the hand-held device based upon an identity of retrieved activity application as recited in claim 22; a first and second characteristic determining a state of availability for the interactive tools as recited in claims 23-24; displaying a first selectable item on the hand-held device wherein the first selectable item being associated with an activity capable of being displayed on the hand-held device (figure 2), displaying a second selectable item on the hand-held device wherein the second selectable item being associated with an interactive tool having a characteristic in a first state, and upon receipt of a selection of the first selectable item on the hand-held device determining whether to modify a state of the characteristic of the interactive tool from the first state to a second state (summary) as recited in

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claim 26; the characteristic is an availability and a menu of contents of the interactive tool as recited in claims 27-28; the first set of interactive tools having different and/or the same interactive tools than the second set of interactive tools, in which the examiner interprets to be the different selections on the toolbar having the same types or different functionality as recited in claims 29-30.

Berman does not expressly disclose that one of the plurality of interactive tools being associated with and displaying indicia of drawing activities as recited in claims 1, 10, 19, 22, and 26.

Yasuhara teaches a plurality of interactive tools, in which the examiner interprets to be the menu selecting area 10c of figure 2, that are associated with and displaying indicia (51) of a drawing activity (figure 2 and 7). By having interactive tools associated with a drawing activity, one of ordinary skill in the art would provide a portable graphic computer apparatus suitably used by children to draw a picture. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Berman to further include interactive tools associated with and displaying indicia of drawing activities as taught by Yasuhara. To do so would provide a portable graphic computer apparatus suitably used by children to draw a picture.

4. Claims 3, 5-6, 11-12, 14-15, and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Berman '773 in view of Yasuhara '777 as applied to claims 1-2, 4, 10, 13, and 22 above, and further in view of Lang '615.

5. Berman in view of Yasuhara disclose the claimed invention as discussed above except for the memory being removable memory cartridge as recited in claims 3, 5, 12, and 14; the second

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source communicating to an Internet site as recited in claims 6 and 15; the memory having a first and second set of activities as recited in claim 11; retrieving activity application from the removable memory cartridge as recited in claim 25.

Lang teaches an electronic device having memory being removable memory cartridge (paragraph 30), the second source communicating to an Internet site (paragraph 29), the memory having a first and second set of activities, in which the examiner interprets the memory device capable of storing different programs, and retrieving activity application from the removable memory cartridge, in which the examiner interprets the expansion slots capable of retrieving applications from different types of external storage device (paragraph 30). By having a removable memory cartridge, one having ordinary skill in the art would be able to provide an electronic device with a wide variety of applications and expansions. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was to modify Berman/Yasuhara to include memory being removable memory cartridge, the second source communicating to an Internet site, the memory having a first and second set of activities, and retrieving activity application from the removable memory cartridge as taught by Lang. To do so would provide an electronic device with a wide variety of applications and expansions.

6. Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over Berman '773 in view of Yasuhara '777.

7. Berman discloses an electronic handheld device having a first memory (21) device for holding a first activity (program), a tool bar menu (figure 2) having, and a port (29) configured to receive a second memory device (column 11, lines 27-37).

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Berman does not expressly disclose the first activity being a drawing activity having a plurality of interactive tools being associated with a set of first and second characteristics being associated with an activity and the second memory device having data associated with a second activity with a set of interactive tools having a second set of characteristics.

Yasuhara teaches a portable graphic computer having a drawing activity with a plurality of interactive tools (10c of figure 2) being associated with a set of first and second characteristics being associated with an activity and the second memory device (55 of figure 11) having data associated with a second activity with a set of interactive tools having a second set of characteristics, in which the examiner interprets to be the memory device capable of having all that is associated and incorporated within the programmed activity (column 11, lines 48-57). By having a drawing activity on a portable computer having a second memory device, one of ordinary skill in the art would provide a wide variety of applications for on a portable graphic computer apparatus that can be used by children to draw a picture.

### *Response to Arguments*

8. Applicant's arguments with respect to claims 1-31 have been considered but are moot in view of the new ground(s) of rejection.

### *Conclusion*

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alex P. Rada whose telephone number is 703-308-7135. The examiner can normally be reached on Monday - Friday, 08:00-16:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Hughes can be reached on 703-308-1806. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

400-  
Apr

  
S. THOMAS HUGHES  
SUPERVISORY PATENT EXAMINER  
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